

Amy Frazier

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<p style="text-align: right;">Page 655</p> <p>1 A. Yes.</p> <p>2 Q. My next question is, just beneath</p> <p>3 that word patient A/R or those two words</p> <p>4 patient A/R, you have written, "Appear to be at</p> <p>5 a low risk assessment. Performing 12:01:04</p> <p>6 walk-throughs of the system."</p> <p>7 Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. What did you mean by that?</p> <p>10 A. I don't recall these work papers. 12:01:12</p> <p>11 The context, though, is taking things from</p> <p>12 Deloitte work papers.</p> <p>13 Q. Is it fair that your best judgment</p> <p>14 today would be that you were noting that</p> <p>15 Deloitte &amp; Touche had put patient A/R at the 12:01:27</p> <p>16 Graduate hospitals or one of them at low risk?</p> <p>17 A. I don't know definitively that</p> <p>18 that's what they did. These are just notes</p> <p>19 that I was gathering thoughts from, so I have</p> <p>20 no idea. 12:01:44</p> <p>21 Q. Well, do you recall yourself coming</p> <p>22 to a conclusion in this time period when you</p> <p>23 prepared these notes that the Graduate A/R</p> <p>24 should be put at low risk as a matter of risk</p> <p>25 assessment? 12:01:56</p>	<p style="text-align: right;">Page 657</p> <p>1 MR. RYAN: Objection.</p> <p>2 A. No, it was an appearance of trying</p> <p>3 to understand what Deloitte assessed them, not</p> <p>4 translating that to what we should assess them.</p> <p>5 We being C&amp;L. 12:03:00</p> <p>6 Q. I understand.</p> <p>7 - - - - -</p> <p>8 (Thereupon, Deposition Exhibit 4442</p> <p>9 was marked for purposes of</p> <p>10 identification.)</p> <p>11 - - - - -</p> <p>12 Q. This is Exhibit 4442, Miss Frazier.</p> <p>13 Are these your notes?</p> <p>14 A. Yes.</p> <p>15 Q. Do you believe these to have been 12:03:41</p> <p>16 written in connection with the Graduate</p> <p>17 hospitals' due diligence -- the Graduate</p> <p>18 hospitals' acquisition due diligence?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall when roughly these 12:03:56</p> <p>21 would have been written?</p> <p>22 A. The same time frame as discussed</p> <p>23 before, and that's in November or December</p> <p>24 1996, generally speaking. I don't know if</p> <p>25 there are other edits or other later notes, 12:04:09</p>
<p style="text-align: right;">Page 656</p> <p>1 MR. RYAN: You mean after she</p> <p>2 joined AHERF when she was on it?</p> <p>3 MR. JONES: No, when she was</p> <p>4 writing these notes.</p> <p>5 MR. RYAN: I'll object. I don't 12:02:06</p> <p>6 understand.</p> <p>7 A. I'm not sure, are you asking as it</p> <p>8 relates to Deloitte? I'm not sure what you're</p> <p>9 asking.</p> <p>10 Q. I've tried to ask whether you think 12:02:10</p> <p>11 it's your best judgment that you wrote low risk</p> <p>12 adjustment because you read it in some of</p> <p>13 Deloitte &amp; Touche's work papers, and you told</p> <p>14 me you didn't know; is that right?</p> <p>15 A. Well, since I used the word appear, 12:02:21</p> <p>16 I'm not sure I would have been deriving</p> <p>17 information. I don't know what their audit</p> <p>18 approach is and if they even used the word low</p> <p>19 risk. I'm just trying to infer a process.</p> <p>20 Q. So then that led me to my next 12:02:30</p> <p>21 question, which was, is this your own</p> <p>22 independent judgment, no matter how</p> <p>23 preliminary, that their patient A/R at Graduate</p> <p>24 hospitals or some group of them should be</p> <p>25 assessed at low risk? 12:02:44</p>	<p style="text-align: right;">Page 658</p> <p>1 but --</p> <p>2 Q. Let me ask you to -- well, let me</p> <p>3 ask you to do nothing more than with that</p> <p>4 document, something with which you happily</p> <p>5 comply, right? 12:04:33</p> <p>6 Can you look at the next exhibit</p> <p>7 for us real briefly?</p> <p>8 - - - - -</p> <p>9 (Thereupon, Deposition Exhibit 4443</p> <p>10 was marked for purposes of</p> <p>11 identification.)</p> <p>12 - - - - -</p> <p>13 Q. It's Exhibit 4443. I think if you</p> <p>14 flip toward the back of the page, you'll see</p> <p>15 that you're listed in the computer screen 12:05:29</p> <p>16 prints as the author of the document.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall preparing this</p> <p>20 document regarding the Park City Avenue trial 12:05:47</p> <p>21 balance?</p> <p>22 A. I don't recall the document.</p> <p>23 Q. Do you have any doubt that you were</p> <p>24 its author?</p> <p>25 A. Not based on the CLASS system, no, 12:05:58</p>

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<p style="text-align: right;">Page 663</p> <p>1 challenged here.</p> <p>2 I think if you turn to page number</p> <p>3 313, we have the same or similar set of</p> <p>4 schedules for the Mt. Sinai Hospital.</p> <p>5 Do you see that, Mt. Sinai Hospital 12:12:29</p> <p>6 bad debt reserves is the heading, the working</p> <p>7 paper name. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. If you skip to page 315 A, you'll</p> <p>10 see a similar schedule headed Mt. Sinai 12:12:50</p> <p>11 Hospital A/R Reserve at June 30, '97 and a</p> <p>12 similar note, do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. This note, too, reads, "AHERF</p> <p>15 decided to rely on the percentages developed by 12:13:01</p> <p>16 D&amp;T, Deloitte &amp; Touche, because they are</p> <p>17 conservative. C&amp;L does not take exception."</p> <p>18 Did I read that right?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall seeing this work 12:13:12</p> <p>21 paper during your '97 audit work?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you recall seeing these work</p> <p>24 papers at any time other than in deposition?</p> <p>25 A. No, I don't recall. 12:13:22</p>	<p style="text-align: right;">Page 665</p> <p>1 Q. Yes, at least for the moment. You</p> <p>2 might want to just put the rubber band on top</p> <p>3 of it.</p> <p>4 If you look back at tick mark B,</p> <p>5 the text there that we discussed a little 12:15:46</p> <p>6 earlier today. Are you with me?</p> <p>7 A. Yes. I guess there's no Bates</p> <p>8 number, but --</p> <p>9 Q. Yes, it's -- let's just make sure</p> <p>10 we're clear for the record. It's one, two, 12:16:02</p> <p>11 three, four pages into the exhibit?</p> <p>12 A. Yes.</p> <p>13 Q. It's under the Graduate system</p> <p>14 restructuring schedule?</p> <p>15 A. Yes. 12:16:11</p> <p>16 Q. It, again, says that, "Prior</p> <p>17 experience with the Delaware Valley entities</p> <p>18 led to the 15 million dollar reserve for bad</p> <p>19 debts. AHERF management believed that when the</p> <p>20 DV entities were brought into the AHERF system, 12:16:25</p> <p>21 the entities did not have sufficient reserves</p> <p>22 on their books for bad debts.</p> <p>23 "Therefore, management wanted to</p> <p>24 have sufficient reserves for the Graduate</p> <p>25 hospitals when they were brought into AHERF. 12:16:38</p>
<p style="text-align: right;">Page 664</p> <p>1 Q. Do you recall yourself learning</p> <p>2 that C&amp;L did not take exception to the view</p> <p>3 that the bad debt reserve at Graduate hospitals</p> <p>4 or any of them was conservative?</p> <p>5 THE WITNESS: I'm sorry, can you 12:13:39</p> <p>6 reread that?</p> <p>7 MR. JONES: Why don't we have that</p> <p>8 one read back.</p> <p>9 (Record read.)</p> <p>10 A. Yes. 12:13:56</p> <p>11 Q. When did you recall learning that?</p> <p>12 A. I guess, generally speaking, as</p> <p>13 part of the year-end audit I recall discussions</p> <p>14 with Mr. Buettner, broadly speaking, about</p> <p>15 Graduate's reserving methodology, and I don't 12:14:16</p> <p>16 recall if we used the word conservative, but</p> <p>17 just that they seemed reasonable.</p> <p>18 Q. Do you recall roughly when those</p> <p>19 conversations took place?</p> <p>20 A. Just during year-end field work. 12:14:35</p> <p>21 Q. Would you look back at 4263 for me,</p> <p>22 if you can find it there. If you can't, we'll</p> <p>23 try to help you.</p> <p>24 A. I can put this one aside?</p> <p>25 Can I put this one aside? 12:15:19</p>	<p style="text-align: right;">Page 666</p> <p>1 AHERF management discussed this decision with</p> <p>2 C&amp;L -- with the C&amp;L partner who agreed that a</p> <p>3 reserve should be established."</p> <p>4 Did I read it right?</p> <p>5 A. Yes. 12:16:52</p> <p>6 Q. In light of the fact that you and</p> <p>7 Mr. Buettner spoke as a part of the due</p> <p>8 diligence process or thereafter and agreed that</p> <p>9 the Graduate hospitals were reserved either</p> <p>10 conservatively or reasonably for bad debt, why 12:17:07</p> <p>11 would anyone write this footnote?</p> <p>12 MR. RYAN: Objection.</p> <p>13 A. I don't know who wrote it, but the</p> <p>14 last sentence looks like someone from AHERF</p> <p>15 told them that. 12:17:23</p> <p>16 Q. It also says the C&amp;L partner</p> <p>17 agreed. Is that right?</p> <p>18 MR. RYAN: Objection.</p> <p>19 A. It says it in the context, though,</p> <p>20 of AHERF management discussed the decision with 12:17:34</p> <p>21 the C&amp;L partner. It sounds like it's being</p> <p>22 reported to someone on the team, but I don't</p> <p>23 know. I don't know who wrote it or recall the</p> <p>24 document.</p> <p>25 MR. JONES: Why don't we break here 12:17:51</p>

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1 Q. So you had a difference of opinion  
2 with your client here?

3 A. It was at least a different view.

4 Q. Let me ask you to look at the  
5 Medicare or what I think is a Medicare 13:35:45  
6 recapture line item. Am I right, that the 7.1  
7 million dollars in brackets beneath the 61  
8 million dollar total relates to a Medicare  
9 recapture?

10 A. Yes. 13:35:57

11 Q. You've written next to the words  
12 "reserve for Medicare recapture, or M/C  
13 recapture, may be aggressive since payor has  
14 not notified the client that such money is  
15 likely to be received." Is that right? 13:36:14

16 A. Yes.

17 Q. Then in parentheses you've written,  
18 "i.e., FAS 5 contingent gain." What did you  
19 mean to say when you wrote that last bit about  
20 "i.e., FAS 5 contingent gain"? 13:36:28

21 A. That recording this amount on the  
22 balance sheet as part of the acquisition  
23 adjustments would be essentially premature to  
24 record that receivable until they had been  
25 notified from the payor. 13:36:47

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1 Q. Is FAS 5 an accounting  
2 pronouncement that deals with when contingent  
3 gains should be recognized?

4 A. Not just contingent gains.

5 Q. Among other things? 13:37:00

6 A. Yes.

7 Q. That's a guidance you were  
8 referring to then, a form of guidance?

9 A. Yes.

10 Q. Back to your note, tick mark M on 13:37:19  
11 91, the page that ends with the Bates digits  
12 91. What did you mean when you wrote, "AHERF  
13 has removed the cushion from Graduate and  
14 transferred the cushion to other contingent  
15 liabilities"? 13:37:36

16 A. I don't recall specifically. I  
17 have a general understanding that I thought  
18 they initially had reclassified it to  
19 liabilities, but I don't recall specifically  
20 the handwritten piece. 13:37:54

21 Q. Do you recall today what you meant  
22 when you wrote "included in bad debt" in the  
23 left-hand margin of tick mark M or next to tick  
24 mark M on page 25991?

25 A. Yes. 13:38:10

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1 Q. What do you recall today?

2 A. I included it in bad debt at  
3 Graduate hospitals once I knew where it was  
4 actually classified.

5 Q. That does not reflect a note to you 13:38:23  
6 that it was to be transferred to the Delaware  
7 Valley Obligated hospitals for bad debt  
8 reserves?

9 A. No.

10 Q. Why are you sure of that today? 13:38:31

11 A. Because I remember going back in to  
12 Dan Cancelmi and not knowing where it was in  
13 contingent liabilities and asking him where it  
14 was, and he said it was in bad debt for  
15 Graduate hospitals. 13:38:46

16 Q. Did you have any reason to believe,  
17 given your prior work in due diligence and  
18 otherwise with respect for the Graduate  
19 hospitals' bad debt reserves, that they needed  
20 a sum as large as 14 million dollars for bad 13:38:57  
21 debt?

22 A. I didn't know. I just didn't know  
23 at the time when he told me how it actually was  
24 incorporated in those last two months that  
25 those entities were in the -- in the AHERF 13:39:13

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1 system. So I just didn't know at the time I  
2 wrote it down.

3 Q. Forgive me, I missed part of that  
4 answer. You went and asked him and he told you  
5 it was for Graduate bad debt? 13:39:27

6 A. That it was in Graduate bad debt.

7 Q. If that reserve was there, why  
8 would you need general reserves to cover the  
9 exposure?

10 MR. RYAN: Objection. 13:39:53

11 A. I wouldn't need general reserves.  
12 AHERF.

13 Q. That's what I mean, AHERF.

14 A. Was -- my steps were to assess  
15 whether or not they were general reserves 13:40:01  
16 because I understood that the -- or came to the  
17 understanding that the amount was essentially  
18 included in the Graduate bad debt reserve  
19 balance, which meant it was for the Graduate  
20 bad debt, that there would be a need to 13:40:18  
21 separately account for the PFMA piece as a  
22 separate reserve since it was no longer  
23 identified as PFMA by AHERF.

24 Q. What do you mean by separately  
25 account for? 13:40:33

40 (Pages 691 to 694)

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1 A. Just separately identify a reserve  
2 for PFMA since AHERF was no longer identifying  
3 a reserve for PFMA.  
4 Q. During your due diligence work or  
5 at any time did you ever see an increase on any 13:41:11  
6 roll-forward or other schedule on the accounts  
7 receivable reserve at Graduate to reflect this  
8 amount?  
9 A. I don't recall.  
10 Q. Let me show you Exhibit 72. You've 13:41:27  
11 seen this one before?  
12 A. Yes.  
13 Q. And it's got your handwriting on  
14 it?  
15 A. Yes. 13:41:36  
16 Q. It's a AHERF audit update August  
17 22, 1997?  
18 A. Yes.  
19 Q. Dated that day?  
20 A. Yes. 13:41:44  
21 Q. Do you see the line item Roman  
22 numeral II, PFMA contract?  
23 A. Yes.  
24 Q. Can you read for us the words that  
25 you have written in handwriting next to that 13:41:58

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1 complete sentences or lines either, so I just  
2 don't recall.  
3 Q. If you look at -- as you look at it  
4 today, does that indicate to you that that's  
5 what you meant, that the reserve recorded in 13:43:15  
6 SDN was to be transferred to the books of DV,  
7 the Delaware Valley Obligated Group hospitals?  
8 A. No.  
9 Q. Why do you say that?  
10 A. Because I know I asked if there 13:43:34  
11 were any other transfers and performed  
12 procedures to understand if there were. I  
13 never became aware of that.  
14 Q. That's not true, is it? I mean,  
15 you became aware of other transfers? 13:43:43  
16 MR. RYAN: Objection.  
17 A. During the 1997 audit.  
18 Q. I understand that your claim has  
19 been that you didn't know during the 1997 audit  
20 work. But you did become aware of other 13:43:53  
21 transfers?  
22 MR. RYAN: You mean after the fact?  
23 MR. JONES: I mean at any time in  
24 life after her audit work in 1997.  
25 MR. RYAN: Okay. 13:44:01

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1 entry?  
2 A. "Reserves recorded in SDN." Then,  
3 "Legal documentation indicates that GHS is  
4 obligated." Then below that, "Transferred  
5 reserves of the books to DV." 13:42:18  
6 Q. GHS was the enterprise from whom --  
7 through SDN AHERF acquired the Graduate  
8 hospitals, right?  
9 A. That's correct.  
10 Q. Transferred reserves, you said it's 13:42:36  
11 of the books?  
12 A. It says "of."  
13 Q. "Transferred reserves of the books  
14 to DV," does that reflect that this amount of  
15 reserve was being moved to the Delaware Valley 13:42:51  
16 Obligated Group hospitals?  
17 MR. RYAN: You're asking her if she  
18 recalled what she meant when she wrote this?  
19 MR. JONES: Yes.  
20 MR. RYAN: Or what she thinks it is 13:42:59  
21 now?  
22 MR. JONES: I'm asking her if  
23 that's what she meant when she wrote it.  
24 A. I don't recall what I wrote and I'm  
25 not sure that's a complete -- those are each 13:43:05

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1 A. It's my understanding there may  
2 have been, but I'm not -- I've never seen  
3 anything or I'm sure of that.  
4 Q. No one's ever told you that there  
5 were transfers that occurred after the first 50 13:44:13  
6 million any time from the day you first walked  
7 into AHERF hospitals until today?  
8 MR. RYAN: Objection.  
9 A. There's people that have told me  
10 that there were, but I've never seen it myself 13:44:24  
11 personally to know if that actually occurred.  
12 Q. So you've been informed of same?  
13 A. I've been informed that that might  
14 be the case. I just don't know.  
15 Q. Do you recall any discussions with 13:44:44  
16 anyone at AHERF about the moving of this  
17 reserve, the PFMA reserve, from the Graduate's  
18 books to the books of the Delaware Valley  
19 Obligated Group hospitals at any time?  
20 MR. RYAN: Objection. 13:45:00  
21 A. I'm sorry, can you repeat it or  
22 reread?  
23 Q. I can repeat it.  
24 Do you recall any discussions with  
25 anyone at AHERF at any time about moving the 13:45:05

41 (Pages 695 to 698)



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<p style="text-align: right;">Page 763</p> <p>1 payments. I remember that topic.</p> <p>2 Q. You believe that additional PATCOM</p> <p>3 payments in the amount of 1 million 300 dollars</p> <p>4 to have been excess in '97, you recall that?</p> <p>5 A. Yes, I do. 15:36:14</p> <p>6 Q. Why did you think it was excess?</p> <p>7 A. I just recall that -- a description</p> <p>8 somewhere that there was additional payments</p> <p>9 that had been received before the end of the</p> <p>10 year, and because the accounts had been written 15:36:29</p> <p>11 off, they didn't take them in as directly to</p> <p>12 income, essentially as a recovery of the bad</p> <p>13 debt expense.</p> <p>14 Q. Did you discuss this with anyone at</p> <p>15 AHERF to confirm this? 15:36:43</p> <p>16 A. I don't recall.</p> <p>17 Q. Did you discuss it with anyone on</p> <p>18 the C&amp;L engagement team?</p> <p>19 A. Yes.</p> <p>20 Q. With whom? 15:36:51</p> <p>21 A. I remember sharing it with</p> <p>22 Mr. Buettner and I remember talking to Kristen</p> <p>23 Heinlein about it.</p> <p>24 MR. RYAN: All done with that</p> <p>25 exhibit just so Miss Frazier can reassemble it? 15:37:28</p>	<p style="text-align: right;">Page 765</p> <p>1 MR. RYAN: Does she know as she</p> <p>2 sits here today?</p> <p>3 MR. JONES: Yes. I'm sorry.</p> <p>4 A. I recall the topic of legal</p> <p>5 reserve. I don't know necessarily what he 15:38:53</p> <p>6 wrote.</p> <p>7 Q. What do you recall, if at all,</p> <p>8 about the topic of legal reserve?</p> <p>9 A. There was a schedule that AHERF had</p> <p>10 that identified certain reserves as legal 15:39:07</p> <p>11 reserves and they were for receivables that had</p> <p>12 been -- that might go into litigation on</p> <p>13 collections but that they were old receivables</p> <p>14 or accounts that actually had been written off</p> <p>15 and that it was really excess reserves. 15:39:31</p> <p>16 Q. That was an impression you had</p> <p>17 anyway?</p> <p>18 A. My understanding of that legal</p> <p>19 reserve, yes.</p> <p>20 Q. Do you know who you spoke -- did 15:39:38</p> <p>21 you speak with anybody at AHERF about the legal</p> <p>22 reserve?</p> <p>23 A. Well, I recall seeing it on some</p> <p>24 document, but I just -- I don't remember who I</p> <p>25 spoke to. 15:39:49</p>
<p style="text-align: right;">Page 764</p> <p>1 MR. JONES: I believe so. Why</p> <p>2 don't you hold on to it for a moment.</p> <p>3 Q. If you look back at 1070 just for a</p> <p>4 moment.</p> <p>5 Is the collection issue you just 15:37:43</p> <p>6 referred to reflected on the two-page schedule</p> <p>7 of Mr. Buettner we were discussing before the</p> <p>8 break? I'm going to direct you to 877 in the</p> <p>9 hope that I'm right that that's where it shows</p> <p>10 up. 15:37:57</p> <p>11 A. I mean, that appears to correlate</p> <p>12 to the topic, yes.</p> <p>13 Q. That entry you're referring to is</p> <p>14 the SCHC collection of 1 million dollars?</p> <p>15 A. Yes. 15:38:11</p> <p>16 Q. That correlates, but you don't know</p> <p>17 with certainty that's what he's referring to,</p> <p>18 is that fair?</p> <p>19 A. Obviously these are his notes that</p> <p>20 he wrote, but I remember discussing the topic 15:38:17</p> <p>21 with him.</p> <p>22 Q. Thank you.</p> <p>23 Do you know what he meant when he</p> <p>24 included a legal reserve G slash L of 1.7</p> <p>25 million dollars on that same page? 15:38:33</p>	<p style="text-align: right;">Page 766</p> <p>1 Q. Do you recall speaking about it</p> <p>2 specifically with Mr. Buettner in these two or</p> <p>3 three meetings that may have led to this</p> <p>4 schedule you have before you?</p> <p>5 A. I don't recall. 15:39:56</p> <p>6 Q. Humor here that only people working</p> <p>7 on this case could find.</p> <p>8 Miss Frazier, I'm handing you now a</p> <p>9 binder clip, I believe is the way this was</p> <p>10 probably maintained, it may not have been, I'm 15:40:30</p> <p>11 sure you'll know better than me, but that at</p> <p>12 least has a face page that is marked as A slash</p> <p>13 R, W slash P's, A slash R, review of '97 during</p> <p>14 FY '98. We're going to mark it new in this</p> <p>15 case.</p> <p>16 - - - - -</p> <p>17 (Thereupon, Deposition Exhibit 4446</p> <p>18 was marked for purposes of</p> <p>19 identification.)</p> <p>20 - - - - - 15:40:55</p> <p>21 Q. It's Exhibit 4446. Have you seen</p> <p>22 this document before or this set of documents</p> <p>23 before if you -- after you take a chance to</p> <p>24 look through it?</p> <p>25 A. I don't recall if I saw this first 15:41:18</p>

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Amy Frazier

Volume 3

<p style="text-align: right;">Page 767</p> <p>1 page, but something that represents the binder 2 cover. I mean, I recall there was a binder 3 that had that title and had information in it, 4 but without seeing the originals, I just -- 5 Q. Look with me -- 15:41:48 6 A. -- don't know. 7 Q. I'm sorry. 8 Look with me on page CL138440, 9 which is the second page of the exhibit. 10 A. Yes. 15:42:00 11 Q. In the upper right-hand corner, my 12 copy may not be wonderful, but under the 13 heading contents, I think I read A slash R 14 review something during fiscal year '98 in your 15 handwriting. Is that right? 15:42:11 16 A. Yes. 17 Q. You referred earlier in your 18 testimony today to a review binder or a review 19 that was undertaken of '97 A/R matters in '98. 20 Do you recall that? 15:42:34 21 A. That's correct. 22 Q. You did such a thing or were 23 involved in it, is that right? 24 A. I was involved with some effort to 25 look at that, yes. 15:42:35</p>	<p style="text-align: right;">Page 769</p> <p>1 A. To meet with AHERF, to -- members 2 of AHERF to discuss an assertion that was made 3 at an audit committee meeting regarding 4 reserves. 5 Q. What was the assertion that you 15:44:22 6 understood you were about to meet about? 7 A. I'm not sure I really ever 8 understood what the assertion was, just that 9 there may have been some additional reserve 10 amounts. I don't know if it was transferred or 15:44:39 11 what. And that there was three different 12 numbers at some point that were being thrown 13 around. 14 Q. When you say additional, you mean 15 beyond the 50 million set we've discussed 15:44:48 16 today? 17 A. Presumably, but the facts were so 18 unclear at that point. 19 Q. What were the three numbers that 20 you remember being discussed? 15:45:01 21 A. I remember 114, a 99 and a 101. 22 That was from all different sources at AHERF. 23 Q. Who do you recall hearing the 24 numbers from? 25 A. I remember one number coming from 15:45:21</p>
<p style="text-align: right;">Page 768</p> <p>1 Q. Who was involved in that effort 2 with you, if anyone, other than Mr. Buettner? 3 A. When in '98? 4 Q. Whenever you did it. 5 A. When I physically was doing this 15:42:47 6 work? 7 Q. Yes. 8 A. I believe Ann Cuthbert assisted 9 with some information. I recall Marne Betta 10 assisting with gathering some information. I 15:43:04 11 don't know, there may have been others who were 12 helping, I just don't recall, as I sit here 13 today. 14 Q. Was Mr. Buettner involved? 15 A. Yes. 15:43:17 16 Q. Let me ask you to look in 17 particular here at pages 468 through 70. 18 Do you recognize these set of 19 pages? 20 A. Yes. 15:43:58 21 Q. What do you recognize them to be? 22 A. A summary that I had prepared in 23 preparation for a meeting. 24 Q. For what kind of a meeting were you 25 preparing this summary? 15:44:10</p>	<p style="text-align: right;">Page 770</p> <p>1 the audit committee meeting that Mr. Buettner 2 went to. I don't remember which number that 3 one was. It was either the 114 or 101. 4 And then I remember -- I just don't 5 recall as I sit here today. But -- and then I 15:45:41 6 remember some number from Mr. Adamczak and some 7 number from Mr. Cancelmi. 8 Q. You don't recall which one either? 9 A. Not as I sit here today. I'm sure 10 I've testified before about it, but I don't 15:46:00 11 know today, as I sit here, who said which ones. 12 Q. Did you understand these to be 13 total numbers of reserve transfers as opposed 14 to an additive of the 50 million? 15 A. I had no idea what they were even 15:46:13 16 talking about. 17 Q. Who asked you to do the work that 18 you did? 19 A. Mr. Buettner after he returned from 20 the audit committee meeting. 15:46:23 21 Q. He's the one that told you about an 22 audit committee meeting at which some number of 23 100 million or more was discussed? 24 A. Yes. 25 Q. And what work did he ask you to do? 15:46:33</p>

59 (Pages 767 to 770)

**DEPOSITION ERRATA SHEET**

RE: THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF ALLEGHENY HEALTH, EDUCATION AND RESEARCH FOUNDATION v. PRICEWATERHOUSE COOPERS, LLP

I, Amy Susan Frazier, make the following corrections, additions, or deletions to the transcript of my deposition, taken on June 8-10, 2004, for the following reasons. By my signature below, I authorize you to attach this errata sheet to the transcript.

<b>Page: Line</b>	<b>Change</b>	<b>Reason</b>
3:11, 263:11-12, 540:12-13	"Schulte, Roth & Zabel, LLP" should be "Schulte Roth & Zabel LLP"	Error
17:16, 19:1	"Janet" should be " <del>Gonette</del> Jeanette <i>q18</i> "	Error
35:19	"one" should be "done"	Error
40:23	"I know" should be "no"	Error
48:13, 49:9	"perspecitve" should be "prospective"	Error
59:6	"provide" should be "provide,"	Error
59:7	"a specialist in 1997 of Duane Girol to look at" should be "a specialist in 1997—Duane Girol—to look at"	Clarification
90:16	"are" should be "aren't"	Error
97:25	"are" should be "is"	Clarification
114:16	"bind" should be "binder"	Error
114:17	"class environment" should be "CLASS environment--"	Error
234:5	Insert "as I sit here today my understanding is" after "and"	Clarification
235:20	Insert "discussions of" after "versus"	Clarification
238:9	"intercompany's" should be "intercompanies"	Error
290:4, 544:3, 549:4, 705:10, 803:7	"Calosheski" should be "Kaliszewski"	Error
290:23	"CRA's" should be "CRAs"	Error
294:13	"Calosheski's" should be "Kaliszewski's"	Error
316:6	"contract" should be "contractual"	Error
317:6, 385:19, 391:13, 393:23, 412:20	"Lyden" should be "Lydon"	Error
334:4	"length" should be "link"	Error
367:17	"No" should be "No, I do not know of any such meeting"	Clarification

<b>Page: Line</b>	<b>Change</b>	<b>Reason</b>
445:16	Insert "about the accuracy of the accounting" after "unsure"	Clarification
456:25	"nor were" should be "nor were we"	Error
462:8	"reference" should be "a reference"	Error
478:18	"Supposedly," should be "Apparently,"	Clarification
489:7	"affect" should be "effect"	Error
552:7	"review," should be "review"	Error
547:21	"reading" should be "rating"	Error
569:21	Remove "don't"	Error
597:25	"Absolutely not." should be "I absolutely did not learn of the transfers at that meeting."	Clarification
678:5	"I referred" should be "I must've referred"	Error
723:2	"of" should be "rev"	Error
725:1	"his" should be "Mr. Buettner's"	Clarification
730:11	"They're" should be "There are"	Error
744:7	"tentative, the" should be "'tentative'. The"	Error
772:11	"are" should be "our"	Error
775:6, 776:10	"Schafer" should be "Schaffer"	Error
806:25	"your" should be "our"	Error
818:15	"Eric" should be "Erica"	Error

I have read the transcript of my deposition taken June 8-10, 2004 and swear that, with the above changes, the transcript is true and correct.

Amy S. Frazier  
Amy S. Frazier

7-16-04

Date

Sworn to before me  
This 16<sup>th</sup> day of July, 2004

Deborah M. Dundon  
Notary Public

Notarial Seal  
Deborah M. Dundon, Notary Public  
Phoenixville Boro, Chester County  
My Commission Expires Mar. 24, 2007



**Gilbert Dep.**

SUSAN GILBERT

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

THE OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF )  
ALLEGHENY HEALTH, EDUCATION & )  
RESEARCH FOUNDATION, )  
Plaintiff, )

-vs-

PRICewaterhouseCOOPERS, L.L.P. )  
Defendant. )

Civil Action  
No. 00-684

VIDEO TAPE

DEPOSITION OF: SUSAN GILBERT

DATE: September 24, 2002  
Tuesday, 8:58 a.m.

LOCATION: MANION McDONOUGH & LUCAS  
14th Floor, USX Tower  
Pittsburgh, PA 15219  
412-232-0200

TAKEN BY: Defendant

REPORTED BY: Claire Gross, CRR, RDR  
Notary Public  
AKF Reference No. Cg72085

SUSAN GILBERT

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1 financial information. Upon reconsideration,  
 2 our accountants are in agreement with us. Do  
 3 you see that?  
 4 A. I do.  
 5 Q. Do you know whether anyone from Foley &  
 6 Lardner spoke with anyone from Coopers &  
 7 Lybrand before sending AHERF this draft  
 8 letter to see whether upon reconsideration  
 9 Coopers & Lybrand was in agreement with that  
 10 interpretation of the bond documents?  
 11 A. I don't know.  
 12 Q. Did you ever speak to anyone from Coopers &  
 13 Lybrand to ask them whether they had a view  
 14 as to whether that financial statement  
 15 presentation complied with the provisions of  
 16 bond documents?  
 17 A. I don't recall.  
 18 Q. Do you know whether any of your colleagues in  
 19 the treasury department at AHERF ever spoke  
 20 to Coopers & Lybrand about that?  
 21 A. I don't recall.  
 22 Q. Let me show you what's been previously marked  
 23 as Exhibit 418. Exhibit 418 is multiple  
 24 copies of very similar letters followed by a  
 25 draft version of the financial statements.

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1 A. Right.  
 2 Q. Do you know whether before sending out this  
 3 October 22, 1997 letter to the various  
 4 creditors anyone from AHERF or from Foley &  
 5 Lardner consulted with Coopers & Lybrand to  
 6 see whether they were in agreement with  
 7 what's stated in the third paragraph of the  
 8 letter?  
 9 A. I don't know.  
 10 Q. Let me show you what's previously been marked  
 11 as Exhibit 419. Exhibit 419 is a December 1,  
 12 '97 letter from Mr. Zimmerman to David  
 13 McConnell; is that right?  
 14 A. Yes.  
 15 Q. And you and Mr. Martin are copied on the  
 16 third page; right?  
 17 A. That's right.  
 18 Q. Your understanding is this the opinion letter  
 19 from Foley & Lardner where Foley & Lardner  
 20 formally advised AHERF that the presentation  
 21 of financial statements based on the  
 22 consolidated audit only complied with the  
 23 bond documents?  
 24 A. I did not read it yet.  
 25 Q. Okay. Why don't you -- why don't do you

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1 Do you see that the signed  
 2 October 22, '97 letters from Michael Martin  
 3 in Exhibit 418 are virtually identical to the  
 4 draft letter in the fax from Becky Serafini  
 5 of Foley & Lardner marked as 416?  
 6 A. Uh-huh.  
 7 Q. That was this one right here.  
 8 A. Right.  
 9 Q. Does it appear that the AHERF treasury  
 10 department followed Foley & Lardner's counsel  
 11 in terms of the form of the letter to send to  
 12 the various creditors?  
 13 MR. HAMILTON: Object to form.  
 14 A. Yes, it appears that way.  
 15 Q. And this letter or these various letters in  
 16 Exhibit 418 were created in a computer file  
 17 on a directory under your name; is that  
 18 right?  
 19 A. Yes.  
 20 Q. Were you involved in the preparation of these  
 21 letters?  
 22 A. Well, it was under my directory, but it  
 23 appears that Addie Saleik typed it for Mike.  
 24 It was just housed within my directory.  
 25 Q. You're looking at the typist's initials, AMS?

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1 that?  
 2 A. (Witness reviews document.)  
 3 MR. RYAN: Could you read back the  
 4 question, please, Claire?  
 5 ----  
 6 (The record was read back by the Reporter.)  
 7 ----  
 8 A. As it related to the annual reporting only?  
 9 Q. Yes.  
 10 A. Yes. I believe this is related to that, yes.  
 11 Q. So my question, I suppose, is this, in going  
 12 ahead and sending to external parties the  
 13 1997 audited financial statements which were  
 14 based on consolidated audits only rather than  
 15 separate audits of the individual obligated  
 16 groups, was AHERF relying upon this formal  
 17 opinion from Foley & Lardner marked as  
 18 Exhibit 419?  
 19 A. Well, the letter that goes out to the other  
 20 parties predates this letter; right?  
 21 Q. Well, that's a letter that attaches draft  
 22 financial statements; right?  
 23 A. Yes. These are draft reports, right.  
 24 Q. Let me ask the question this way, is it the  
 25 case that during this time frame in the fall

SUSAN GILBERT

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1 of '97 -- maybe even earlier in '97 -- there  
 2 were some discussions about whether the  
 3 format of the consolidated-only financial  
 4 statements would comply with various bond  
 5 document provisions; is that right?  
 6 A. Yes.  
 7 Q. Now, Foley & Lardner were AHERF's bond  
 8 counsel; right?  
 9 A. They were actually hospital counsel.  
 10 Q. They were bond counsel for the various  
 11 obligated groups?  
 12 MR. HAMILTON: Object to form.  
 13 Q. I'm perhaps confused by the term hospital.  
 14 A. They represented -- they were the  
 15 university's counsel for debt issues, but I  
 16 believe that Ballard Spahr was bond counsel  
 17 for the transactions.  
 18 Q. In any event, Foley & Lardner was the law  
 19 firm that AHERF was consulting on this issue?  
 20 A. Yes. That's right.  
 21 Q. And Foley & Lardner had considerable  
 22 expertise in healthcare bond matters; right?  
 23 A. Yes.  
 24 Q. And was it your understanding that in  
 25 reaching the conclusion that this financial

1 ----  
 2 BY MR. RYAN:  
 3 Q. Is Exhibit 646 an E-mail that you sent to  
 4 Mike Martin, Angela Maher and Kelly Mertz on  
 5 December 19, '97?  
 6 A. Yes.  
 7 Q. And you are updating them on several items  
 8 that you had discussed with Becky Serafini of  
 9 Foley & Lardner; right?  
 10 A. Yes.  
 11 Q. In item 1 you state AHERF is required to  
 12 deliver the SMDR by December 31 even if the  
 13 attached financial statements are unaudited.  
 14 Is that something that Becky Serafini told  
 15 you?  
 16 A. I do not recall.  
 17 Q. Is that the type of thing that you would  
 18 conclude on your own, or is that something  
 19 that you would get advice from Becky  
 20 Serafini?  
 21 A. I probably discussed it with Becky, yes.  
 22 Q. And the SMDR is the secondary market  
 23 disclosure report?  
 24 A. Yes.  
 25 Q. The next sentence states, We must then

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1 statement presentation complied with the bond  
 2 documents, that AHERF was relying on the  
 3 legal opinion of Foley & Lardner?  
 4 A. Yes.  
 5 Q. If Foley & Lardner had said, no, it's no good  
 6 like this, AHERF would have had to do  
 7 something different; correct?  
 8 MR. HAMILTON: Object to form.  
 9 A. Yes.  
 10 Q. On this issue about compliance with these  
 11 bond documents as a legal matter, in your  
 12 understanding AHERF was not relying upon its  
 13 auditors from Coopers & Lybrand, were they?  
 14 MR. HAMILTON: Object to form.  
 15 A. No.  
 16 Q. Foley was the one who was providing the legal  
 17 opinion?  
 18 A. Yes.  
 19 MR. HAMILTON: Object to form.  
 20 MR. RYAN: Let me mark, please, as  
 21 Exhibit 646 a one-page document with Bates  
 22 number PR-DLC-16002805.  
 23 ----  
 24 (Deposition Exhibit 646 marked for  
 25 identification.)

1 resubmit to the dissemination agent when the  
 2 audit is complete. Who was the dissemination  
 3 agent?  
 4 A. I do not know.  
 5 Q. Let me skip down to item 5. You see there  
 6 you refer to Moody's verbal downgrade on DVOG  
 7 nonpublic rating to noninvestment grade per  
 8 MPM. Do you see that?  
 9 A. I do.  
 10 Q. Is that a reference to the fact that Mike  
 11 Martin had told you that in a conversation  
 12 with Moody's they had told him that Moody's  
 13 had downgraded the shadow rating to a  
 14 noninvestment grade or junk bond rating?  
 15 A. Yes. That's what it appears to read.  
 16 Q. And then skipping one sentence it then says,  
 17 Becky and Bob will review this topic further  
 18 and let us know of their position whether to  
 19 disclose or not. Do you see that?  
 20 A. Yes.  
 21 Q. Is the issue there that you were discussing  
 22 with Ms. Serafini whether AHERF had to  
 23 disclose this downgrade on the nonpublic bond  
 24 rating in the secondary market disclosure  
 25 report?

40 (Pages 154 to 157)

SUSAN GILBERT

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1 Graduate Health System before the affiliation  
 2 with AHERF?  
 3 A. Well, that's what I was questioning when you  
 4 say before the affiliation. I have no  
 5 recollection of a timeline here.  
 6 Q. Okay. At any rate, we can agree that the  
 7 covenant noncompliance is for fiscal year '95  
 8 for Zurbrugg, which had a December 31 year --  
 9 would be as of December 31, '95; is that  
 10 right?  
 11 A. Yes.  
 12 Q. And Ernst & Young was then retained to  
 13 prepare this consultant's report; is that  
 14 right?  
 15 A. Apparently, yes.  
 16 Q. Do you recall whether the master trustee for  
 17 the Zurbrugg bonds accepted the Ernst & Young  
 18 consultant's report to cure the covenant  
 19 violation?  
 20 A. I don't know who the master trustee was. I  
 21 don't know.  
 22 Q. I think earlier we saw a reference to Maria  
 23 Eisen from the Bank of New York?  
 24 A. Bank of New York. Okay. You're right. It  
 25 was Bank of New York. Whether or not they

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1 ----  
 2 (The proceedings were adjourned at 3:59 p.m.)  
 3 ----  
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 22  
 23  
 24  
 25

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1 accepted this?  
 2 Q. Yes.  
 3 A. I don't know.  
 4 Q. Do you recall that the Graduate acquisition  
 5 was done in two stages with a company called  
 6 SDN, Inc. being used at an intermediate  
 7 stage?  
 8 MR. HAMILTON: I will object to  
 9 form.  
 10 A. What are the two stages?  
 11 MR. HAMILTON: I'm going to object.  
 12 Q. Do you recall --  
 13 A. I remember the SDN definitely.  
 14 Q. I'll ask you what you can remember about the  
 15 role of SDN, Inc. in the Graduate  
 16 acquisition?  
 17 A. I remember the SDN name. I don't know.  
 18 That's what I was alluding to. I'm not  
 19 certain what the first and second step was.  
 20 MR. RYAN: Okay. Since it's now  
 21 4:00, why don't we break here for the day,  
 22 and we'll pick up here tomorrow morning.  
 23 THE VIDEOGRAPHER: We are now going  
 24 off the record. The time on the screen is  
 25 3:59.

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1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE  
 2 COUNTY OF ALLEGHENY ) SS:  
 3 I, Claire Gross, RDR, a Court Reporter and  
 4 Notary Public in and for the Commonwealth of  
 5 Pennsylvania, do hereby certify that the witness,  
 6 SUSAN GILBERT, was by me first duly sworn to testify  
 7 to the truth; that the forgoing deposition was taken  
 8 at the time and place stated herein; and that the  
 9 said deposition was recorded stenographically by me  
 10 and then reduced to printing under my direction, and  
 11 constitutes a true record of the testimony given by  
 12 said witness.  
 13 I further certify that the inspection, reading  
 14 and signing of said deposition were NOT waived by  
 15 counsel for the respective parties and by the  
 16 witness.  
 17 I further certify that I am not a relative or  
 18 employee of any of the parties, or a relative or  
 19 employee of either counsel, and that I am in no way  
 20 interested directly or indirectly in this action.  
 21 IN WITNESS WHEREOF, I have hereunto set my hand  
 22 and affixed my seal of office this 25th day of  
 23 September, 2002.  
 24 \_\_\_\_\_  
 25 Notary Public



SUSAN GILBERT

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1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
2 COUNTY OF ALLEGHENY ) S H E E T

3 I, SUSAN GILBERT, have read the foregoing pages  
4 of my deposition given on Tuesday, September 25,  
5 2002, and wish to make the following, if any,  
6 amendments, additions, deletions or corrections:

7 Page/Line Should Read Reason for Change  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

20 In all other respects, the transcript is true and  
21 correct.

22 \_\_\_\_\_  
SUSAN GILBERT

23 Subscribed and sworn to before me this  
24 \_\_\_\_\_ day of \_\_\_\_\_, 2002.

25 \_\_\_\_\_  
Notary Public  
AKF Reference No. Cg72085

SUSAN GILBERT

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1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 WESTERN DISTRICT OF PENNSYLVANIA

3 THE OFFICIAL COMMITTEE OF )  
4 UNSECURED CREDITORS OF )  
5 ALLEGHENY HEALTH, EDUCATION & )  
6 RESEARCH FOUNDATION, )

7 Plaintiff, )

8 -vs- )

9 PRICEWATERHOUSECOOPERS, L.L.P. )

10 Defendant. )

Civil Action  
No. 00-684

11 VIDEO TAPE  
12 DEPOSITION OF: SUSAN GILBERT  
13 VOLUME III  
14 - - - -  
15

16 DATE: September 26, 2002  
17 Thursday, 8:02 a.m.

18 LOCATION: MANION McDONOUGH & LUCAS  
19 14th Floor, USX Tower  
20 Pittsburgh, PA 15219  
412-232-0200

21 TAKEN BY: Defendant

22 REPORTED BY: Claire Gross, CRR, RDR  
23 Notary Public  
24 AKF Reference No. Cg72148  
25

SUSAN GILBERT

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1 performing the short-term indebtedness  
2 cleanup calculation required by the DVOG  
3 Master Trust Indenture would only include the  
4 letter of credit borrowings and reduce those  
5 to the levels required by that provision but  
6 not reduce the payables to affiliates as part  
7 of that calculation?

8 MR. RYAN: Objection.

9 A. That appears to be how my message reads, but  
10 from these notes here I can't provide any  
11 substantive information as to why that was  
12 the decision, if it was, in fact, the  
13 decision.

14 Q. And just so we close the record on this, do  
15 you have any recollection at all of that  
16 conversation with Mr. Kirstein?

17 MR. RYAN: Is it Kirstein?

18 MR. HAMILTON: I believe it's  
19 Kirstein.

20 MR. RYAN: Excuse me, Mr. Kirstein.

21 A. No, I do not recall.

22 BY MR. HAMILTON:

23 Q. Do you have any recollection of how you  
24 came -- how you acquired this information  
25 that you transmitted to Mr. Kirstein?

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1 A. Not from this information presented here.

2 Q. You don't have any independent recollection?

3 A. No.

4 Q. Do you have any understanding as to why you  
5 were transmitting this information to  
6 Mr. Kirstein?

7 A. Possibly as a follow-up to his earlier  
8 letter.

9 Q. And you're referring to Exhibit 698, the  
10 June 18, '96 letter?

11 A. Yes.

12 Q. Do you have any understanding as to why  
13 Coopers & Lybrand would want to know this  
14 information that you're giving them?

15 A. Probably because the number had grown to a  
16 size that was somewhat substantial, and I  
17 guess just generally from a compliance  
18 standpoint.

19 Q. By the number, you mean the intercompany  
20 payable that was on DVOG's -- the DVOG  
21 entities' books to the West?

22 A. That's right.

23 Q. Why do you believe Coopers & Lybrand would be  
24 concerned about how that would affect your  
25 compliance with the short-term indebtedness

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1 covenant?

2 MR. RYAN: Objection.

3 A. I don't know.

4 Q. Did you have an understanding as to whether  
5 or not Coopers & Lybrand would be reviewing  
6 for accuracy AHERF's calculations of its  
7 compliance with its debt covenants under the  
8 DVOG master trust indenture?

9 A. Yes. They typically did that on year-end  
10 audits, so from a compliance standpoint, as I  
11 mentioned earlier, that would have been why  
12 they would have been concerned.

13 Q. On the 6-25 note I'm confused a little bit.  
14 Maybe you can help me, maybe not. The note  
15 said, I believe you said, services provided  
16 by all or certain Delaware Valley affiliates.  
17 Are those supposed to be services that are  
18 provided to the Delaware Valley affiliates or  
19 by the Delaware Valley affiliates? Strike  
20 that. That's a bad question.

21 Let me ask it this way. If AHERF  
22 were to pay for a Delaware Valley affiliate's  
23 fringe benefits or malpractice insurance or  
24 administrative support expense, would that  
25 payment be recorded as on the Delaware Valley

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1 entities' books as a payable to an affiliate?

2 A. I don't know if these two notes here are  
3 directly related. Is that your point?

4 Q. Well, that's where I'm going with it, yes.

5 A. I was trying to figure out the connection  
6 between these two. They might be just two  
7 separate questions.

8 Q. Before I tie it back to the notes, let me  
9 just ask the question again. If AHERF pays a  
10 fringe benefit expense on behalf of  
11 Hahnemann, and it's paid out of AHERF funds,  
12 is it your understanding that the amount of  
13 that payment would be recorded on Hahnemann's  
14 accounting records as a payable to  
15 affiliates, a payable to AHERF?

16 A. Are you saying that it would reduce the  
17 intercompany?

18 Q. At this point I'm just asking you if the  
19 payment made by AHERF on behalf of Hahnemann  
20 would be recorded on Hahnemann's books as a  
21 payable to AHERF or a payable to an  
22 affiliate?

23 A. Possibly, but this is not my area of  
24 expertise, and I don't know for certain how  
25 it would be handled.

SUSAN GILBERT

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1 Q. Are the fringe benefits and malpractice  
2 insurance and administrative support and  
3 teaching notations you have there examples of  
4 normal routine operating expenses that you  
5 made a note of just above?

6 A. I do not know. I don't know if the two notes  
7 are related.

8 Q. I want to ask you one more question about  
9 Exhibit 701 which before we had looked at  
10 solely because of the Bates stamp range, and  
11 that's the fax cover page from Amy Frazier at  
12 Coopers to you.

13 Again, we don't have, at least in  
14 this Bates stamp range, the attachment to  
15 this cover page. You see a number of pages  
16 it indicates two pages.

17 A. Yes.

18 Q. Do you have any idea what was attached to  
19 this cover page?

20 A. There is no date on it either?

21 Q. Well, up here the fax header has been cut off  
22 on the copy. I've been unable to put a date  
23 on it.

24 A. I mean, it might be the Mark Kirstein letter  
25 which she would have sent it under her name.

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1 used the prior quarter and then just updated  
2 it.

3 Q. Who was responsible for doing that?

4 A. I would say I was.

5 Q. Did there come a time when you delegated that  
6 responsibility to Ms. Mertz?

7 A. Yes.

8 Q. Do you remember approximately when that was?

9 A. No.

10 Q. If I can show you what we are going to mark  
11 as Exhibit 706.

12 ----

13 (Deposition Exhibit 706 marked for  
14 identification.)

15 ----

16 BY MR. HAMILTON:

17 Q. Exhibit 706 is a document which bears the  
18 Bates stamp JD-MM-003495 consecutively -- not  
19 consecutively -- 3495, 3497, 3499 and 501.

20 It appears we are missing every other page  
21 because it probably was a two-sided original  
22 that was photographed missing every other  
23 page. Do you recognize this document,  
24 Ms. Gilbert?

25 A. Yes.

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1 Q. Yes. Okay. All right. Okay. If you look  
2 at Exhibit 698, which is the Kirstein letter,  
3 you see up at the top right in the fax header  
4 Exhibit 701, the cover page says page 1;  
5 right?

6 A. Yes.

7 Q. And on 698, which is the Kirstein letter,  
8 which is also sort of cut off in the left on  
9 the far right it appears to be page 2. That  
10 would be consistent with your thought that  
11 this might have been the attachment?

12 A. Sure.

13 Q. Got you. Were you involved in the  
14 preparation of management investment reports?

15 A. The investment reports, yes.

16 Q. Yes.

17 A. I was.

18 Q. When did you first become involved in  
19 preparing the investment reports?

20 A. After I had been on board for a short time,  
21 maybe like a year or so.

22 Q. Did there come a time -- when you first  
23 became involved, were you involved or were  
24 you the one that actually created the report?

25 A. What do you mean created it? We basically

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1 Q. What is this document?

2 A. This document is a quarterly report that was  
3 presented at or was made a part of the  
4 package presented to the investment committee  
5 board of trustee members.

6 Q. Is this an example of the investment reports  
7 that we were talking about?

8 A. Yes.

9 Q. As of this report, March 31, '96, is this a  
10 report that you had delegated the initial  
11 responsibility for preparing to Ms. Mertz?

12 A. I'm not certain of the exact time frame.

13 Q. Now, if you look at the tables that are on --  
14 you have on the page in big print 77 at the  
15 top right-hand corner, the first tables  
16 represent the allocation of AHERF investment  
17 funds by entity. Do you see that?

18 A. Yes.

19 Q. And under AGH there is the total written  
20 above the bar graph of 162,706 which I think  
21 is a reference to 162 million; is that  
22 correct?

23 A. Yes.

24 Q. Does that figure -- what does that figure  
25 represent?

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1 A. Let's see here. It appears that pension is  
 2 included in this allocation, so that would  
 3 include AGH's pension plan and nonpension  
 4 investable assets which would be endowment  
 5 funded depreciation and special purpose.  
 6 Q. And then if we look at the third one,  
 7 Allocation by Portfolio, you see the second  
 8 bar graph is labeled Funded Depreciation. Do  
 9 you see that, the bottom?  
 10 A. Yes.  
 11 Q. And there is a number of 157,657,000. Do you  
 12 see that?  
 13 A. Yes.  
 14 Q. What does that represent?  
 15 A. That would represent total funded  
 16 depreciation market value systemwide.  
 17 Q. For all the AHERF entities?  
 18 A. Yes.  
 19 Q. If we turn -- can't do it on this one. All  
 20 right. Let's mark this one as the next one  
 21 707.  
 22 ----  
 23 (Deposition Exhibit 707 marked for  
 24 identification.)  
 25 ----

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1 Q. And then down at the bottom on allocation by  
 2 portfolio there is a total figure of 147,623  
 3 for funded depreciation accounts systemwide?  
 4 A. Yes.  
 5 MR. HAMILTON: We'll mark this one as  
 6 the next exhibit.  
 7 ----  
 8 (Deposition Exhibit 708 marked for  
 9 identification.)  
 10 ----  
 11 BY MR. HAMILTON:  
 12 Q. The court reporter has handed you what's been  
 13 marked as Exhibit 708. This time we fixed  
 14 the problem, Ms. Gilbert. It appears to be  
 15 the entire document that bears the Bates  
 16 stamp GOV 58499 consecutively to 58506. Is  
 17 this the investment report ending  
 18 December 31, '96?  
 19 A. Yes.  
 20 Q. And on this one you turn the page to 38, the  
 21 allocation tables.  
 22 A. Uh-huh.  
 23 Q. The first table is allocation by entity and  
 24 it indicates for AGH total investments of  
 25 193,742. Do you see that?

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1 BY MR. HAMILTON:  
 2 Q. The court reporter has handed you,  
 3 Ms. Gilbert, Exhibit 707, which has the same  
 4 problem of being every other page, I believe.  
 5 It has the Bates stamp JD-MM 0003536, 3538,  
 6 and 3540. Is this a copy of the investment  
 7 report for the next quarter, September 30,  
 8 '96?  
 9 MR. RYAN: Objection.  
 10 A. The June quarter would have fallen between  
 11 the two.  
 12 Q. My fault. That's right.  
 13 A. I mean, when you had said earlier that I had  
 14 delegated this effort to Kelly Mertz, I mean,  
 15 I also played a part in the development of  
 16 this.  
 17 Q. Okay. And if you look to the second page of  
 18 this exhibit, under the bar graph or  
 19 allocation of entity by AGH, it shows  
 20 160,479,000 for funds invested for AGH; is  
 21 that correct?  
 22 A. That's correct.  
 23 Q. Again that includes the funded depreciation  
 24 at AGH and pension and some other funds?  
 25 A. Right.

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1 A. I do.  
 2 Q. Down at the bottom, although the photocopy is  
 3 cut off at this point, the amount for funded  
 4 depreciation systemwide is 180,480,000;  
 5 right?  
 6 A. Yes.  
 7 Q. Now, if you turn to page 40 -- let's start  
 8 with 39. On page 39 there is a heading  
 9 Roman V Performance Results. Do you see  
 10 that?  
 11 A. I do.  
 12 Q. If you flip the page you get the box for  
 13 Funded Depreciation Pittsburgh Only?  
 14 A. Yes.  
 15 Q. And you understand that to mean the funded  
 16 depreciation accounts in this box of AGH?  
 17 A. Yes.  
 18 Q. And it indicates under the column of One Year  
 19 Ending 12-31-96 a percentage of 9.9 percent.  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. What does that figure represent?  
 23 A. That represents the net performance return on  
 24 the AGH entire portfolio across the three  
 25 accounts for the one-year period ending



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1 12-31-96.  
 2 Q. And when you say a performance return, what  
 3 does that mean?  
 4 A. The performance return would be a combination  
 5 of interest income, dividend income, realized  
 6 gains and losses and the unrealized component  
 7 as well, unrealized gain or loss.  
 8 Q. How did you derive that figure, 9.9 percent?  
 9 A. That was actually computed by outside  
 10 consultants.  
 11 Q. How did they compute it?  
 12 A. What they did was they based their return  
 13 information on the trust accounts that were  
 14 supplied to them by Mellon, and they would  
 15 have computed quarterly return for the  
 16 portfolio and basically strung the four  
 17 quarter returns together to arrive at the  
 18 9.9.  
 19 Q. And so this 9.9 percent return on the AGH  
 20 funded depreciation, does that relate then in  
 21 some way to the bar graph on page 38 for the  
 22 AGH invested funds?  
 23 A. Yes.  
 24 MR. RYAN: Objection.  
 25 Q. How does it relate?

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1 A. Well, first of all, in the AGH funded  
 2 depreciation, that's where there was a note  
 3 receivable, I believe, embedded in the funded  
 4 depreciation total, and the performance  
 5 return information that is presented on this  
 6 page 40 would be the components that I had  
 7 just recited based upon the actual dollars  
 8 held in those respective trust accounts as  
 9 opposed to inflating it by that note  
 10 receivable.  
 11 Q. So on page 38, under AGH, the bar graph under  
 12 allocation of entity by 193 million, that  
 13 number includes not only the amount of money  
 14 that was actually still in the funded  
 15 depreciation account as of 12-31-96 at AGH  
 16 but also the money that had been taken out of  
 17 the funded depreciation account and spent in  
 18 the East and was recorded as a note  
 19 receivable on AGH books; is that right?  
 20 MR. RYAN: Objection.  
 21 A. The 180 at the bottom, which is actually  
 22 the -- well, that would be funded  
 23 depreciation systemwide. But, yes, if you  
 24 look at the AGH number here, I believe that  
 25 the note receivable was in there. I don't

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1 know what the size of it would have been at  
 2 that time, but that's where the location of  
 3 it was, and David McConnell had wanted that  
 4 included in those balances presented.  
 5 Q. Now, the 9.9 percent return figure for the  
 6 AGH funded depreciation doesn't apply to the  
 7 funds that had been transferred and spent in  
 8 the east; is that right?  
 9 A. That's right.  
 10 Q. Is that fact indicated anywhere on this  
 11 investment report?  
 12 A. I'm not certain if it's included in this one,  
 13 but at one particular date that particular  
 14 message began to be included in this report,  
 15 but I don't have a firm idea on timeline, and  
 16 I believe it was at Joe Dionisio's request to  
 17 make that statement. Not so much in the  
 18 AHERF report, but possibly in the AGH report.  
 19 MR. HAMILTON: Mark this one.  
 20 ----  
 21 (Deposition Exhibit 709 marked for  
 22 identification.)  
 23 ----  
 24 A. Do you want this back?  
 25 Q. Yes. I need to see it. Okay. Exhibit 709,

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1 Ms. Gilbert, has the Bates stamp GOV 58034  
 2 consecutively through 43 -- it's not  
 3 consecutively. All right. 34, 35, 36, 37,  
 4 and there is three pages missing, and then  
 5 40, 41, 42, and 43. Can you tell me what  
 6 this document is?  
 7 A. This is another quarterly management report  
 8 on investments for the quarter ended  
 9 March 31, '97, to the AHERF investment  
 10 committee.  
 11 MR. HAMILTON: Mark that as 710.  
 12 ----  
 13 (Deposition Exhibit 710 marked for  
 14 identification.)  
 15 ----  
 16 BY MR. HAMILTON:  
 17 Q. Ms. Gilbert, the court reporter has handed  
 18 you what's been marked as Exhibit 710 --  
 19 A. Yes.  
 20 Q. -- which has the Bates stamped JD-DMC-0011289  
 21 consecutively through 0011300. What is this  
 22 document?  
 23 A. This is a memo from Angela Maher to Tony  
 24 Sanzo and Joe Dionisio for the Western Region  
 25 Resource Management Committee meeting.

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1 Q. What is attached to the memo?  
 2 A. What is attached is the investment report on  
 3 AUH West as of September 30, '97.  
 4 Q. And the date that this was transmitted by  
 5 Ms. Maher to Mr. Sanzo and Dionisio is  
 6 January 27, '98?  
 7 A. That's correct.  
 8 Q. And so this is an example of the investment  
 9 reports for not AHERF but the Western Region?  
 10 A. That's right.  
 11 Q. And if you look at the page that has the  
 12 tables on it, the pie charts which has the  
 13 Bates stamp 11294, and if you look at here  
 14 the allocation by entity, under AGH there is  
 15 a reference to 185,736,000. Do you see that?  
 16 A. I do.  
 17 Q. What does that represent?  
 18 A. That represents AGH investable assets  
 19 including pension and nonpension, and it also  
 20 incorporates the AGH intercompany note  
 21 receivable that's embedded in its funded  
 22 depreciation balance.  
 23 Q. And that fact is reflected here by the  
 24 asterisk; is that right?  
 25 A. That's right.

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1 Q. Because the asterisk is right next to the  
 2 185?  
 3 A. Yes.  
 4 Q. The asterisk says Includes AGH intercompany  
 5 note receivable in the amount of 119,431,000;  
 6 is that right?  
 7 A. That's right.  
 8 Q. Is this the document that you were referring  
 9 to where eventually it was noted that the  
 10 intercompany note receivable was noted with  
 11 respect to the amounts that were invested on  
 12 behalf of AGH?  
 13 MR. RYAN: Objection.  
 14 A. Yes.  
 15 Q. Prior to the investment report that was  
 16 prepared for AUH West for the period ending  
 17 September 30, '97, did the treasury  
 18 department prepare an investment report that  
 19 noted expressly that the -- strike that. Let  
 20 me start over.  
 21 Prior to the investment report that  
 22 was prepared for AUH West for the period  
 23 ending September 30, '97, that is Exhibit  
 24 710, did the treasury department ever prepare  
 25 a management investment report that expressly

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1 noted that the investments allocated to the  
 2 AGH entity in the report included in the  
 3 total figure the AGH intercompany note  
 4 receivable?  
 5 A. It's possible. Either David McConnell or Joe  
 6 Dionisio made the decision on how they wanted  
 7 that note receivable reflected. So we  
 8 were -- the treasury department was directed  
 9 by either one of those individuals as it  
 10 referred to their respective reports.  
 11 Q. With respect to Exhibit 709, which is the  
 12 management report on investments for the  
 13 period ending March '97, if you look at  
 14 the -- at this time it's bar graphs as  
 15 opposed to pie charts.  
 16 A. Sure.  
 17 Q. There is no asterisk next to the AGH figure  
 18 of 160,265,000; right?  
 19 A. That's right.  
 20 Q. So on this document it does not appear that  
 21 the existence of the intercompany note be  
 22 included in that amount has been disclosed in  
 23 this report?  
 24 MR. RYAN: Objection.  
 25 A. It has not been disclosed as redirected by

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1 David McConnell. That's correct.  
 2 Q. That fact was also not disclosed on the  
 3 management report for the period ending  
 4 December 31, '96, that is Exhibit 708; is  
 5 that correct?  
 6 MR. RYAN: Objection.  
 7 A. I do not see it, no.  
 8 Q. And if you look at Exhibit 707 where the  
 9 management report ending September 30, '96,  
 10 and the allocation tables on page 24, the  
 11 fact that the intercompany note receivable is  
 12 included in the 160,479 figure for AGH is  
 13 also not disclosed?  
 14 A. That's correct.  
 15 MR. RYAN: Objection.  
 16 A. It's not disclosed in this chart.  
 17 Q. Did you have discussions with Ms. Mertz and  
 18 Mr. Martin as to whether or not the inclusion  
 19 of the intercompany note receivable in those  
 20 bar graphs was appropriate in these reports?  
 21 A. I believe those conversations took place.  
 22 Q. What do you recall about those conversations?  
 23 A. Just the idea, again, presenting this  
 24 information to a trustee member and not  
 25 bringing attention to the fact that a

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1 significant portion of the AGH funded  
2 depreciation portfolio was in the form of a  
3 note. That fact was transparent to a trustee  
4 member because there was no explicit comment  
5 within the body of the report --

6 Q. And so --

7 A. -- nor the financial statements for that  
8 matter.

9 Q. And so when you say transparent to the board  
10 member, what do you mean by the term  
11 transparent?

12 A. A trustee member taking a look at a quarterly  
13 report would see that AGH has X amount of  
14 dollars invested in their funded depreciation  
15 portfolio assuming that it would be spread  
16 across the various asset classes as denoted  
17 not knowing that there was a note to the  
18 Delaware Valley embedded as an investment,  
19 embedded in the funded depreciation portfolio  
20 as an investment.

21 Q. Why would that matter to the trustee?

22 MR. RYAN: Objection.

23 A. I think it should matter to the trustee  
24 because basically what was happening was that  
25 AGH was financing the operations of the

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1 Q. All right. Would it be reasonable for the  
2 trustee to make that inference from this  
3 report the way it's presented?

4 MR. RYAN: Objection.

5 A. To make the inference that the one-year  
6 performance return net of fees is 7.1 for the  
7 funded depreciation portfolio only?

8 Q. Yes?

9 A. Yes?

10 Q. And if he made that -- if he or she, the  
11 trustee made that reasonable inference, would  
12 they be in error?

13 MR. RYAN: Objection.

14 A. No.

15 Q. Did AHERF earn a 7.1 percent return on the  
16 portion -- strike that. Did AGH earn a 7.1  
17 percent return on the portion of the funded  
18 depreciation account that was actually  
19 liquidated and transferred to the East and  
20 recorded as a note receivable?

21 MR. RYAN: Objection.

22 A. There may have been some calculation done  
23 behind the scenes by the accounting group  
24 with respect to charging them interest. I  
25 don't know if that was the case or not.

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1 Delaware Valley without their knowledge and  
2 approval.

3 Q. Based upon your understanding of -- let's  
4 just pick the Exhibit -- strike that --  
5 Exhibit 709, which is the investment report  
6 from March 30, '97, and if I can direct your  
7 attention on that Exhibit 709 to page 47 in  
8 the box that has the Return for Funded  
9 Depreciation Pittsburgh Only.

10 A. Yes.

11 Q. And it says for -- let's just say the one  
12 year ending 3-31-97 there is a percentage of  
13 7.1 percent. Do you see that?

14 A. Yes.

15 Q. Would it be reasonable for a trustee who  
16 receives this report to infer from the report  
17 that the portion of AGH's 160,265,000 that  
18 was invested as indicated on the last page,  
19 the portion of that 160 million that was in  
20 the funded depreciation account had earned  
21 7.1 percent in interest for the past twelve  
22 months?

23 MR. RYAN: Objection.

24 A. Not interest. It also includes the  
25 unrealized component.

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1 Q. All right. That's why I was asking you  
2 earlier -- let's go back to this.

3 A. Okay.

4 Q. Let's go to page 3 and the funded  
5 depreciation Pittsburgh only, AGH return 7.1  
6 percent. How is that figure calculated for  
7 this report?

8 A. The figure is based upon the underlying  
9 Mellon trust statements that do not include  
10 the note receivable, the actual assets that  
11 are physically in those three trust accounts.

12 Q. So there is no -- in preparing that 7.1  
13 percent figure putting in this report, there  
14 is no effort to calculate the rate of return  
15 that AGH is earning or realizing on the money  
16 that has been, quote, lent, closed quote, to  
17 the other entities?

18 MR. RYAN: Objection to form.

19 A. It is outside of these dollars, however  
20 that's being handled.

21 Q. And the trustee who receives this report  
22 would not be aware of that fact; is that  
23 right?

24 MR. RYAN: Objection.

25 A. In its present form, correct.

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- 1 Q. Did you believe that was a problem with this  
2 form of the report?  
3 MR. RYAN: Objection.  
4 A. I did not think that it was a valid or  
5 appropriate presentation of the AGH funded  
6 depreciation portfolio.  
7 Q. Did Ms. Mertz agree with you on that point?  
8 A. I think she may.  
9 Q. And did you discuss that with Mr. Martin?  
10 A. I'm sure Mike heard my comments on that  
11 topic.  
12 Q. Did he agree with you?  
13 A. He may have.  
14 Q. Did you express that view to Mr. McConnell?  
15 A. I did have a conversation with David on that  
16 topic regarding how do we present the note  
17 receivable.  
18 Q. Did you have just one conversation or more  
19 than one conversation with Mr. McConnell in  
20 that regard?  
21 A. I believe I sent friendly quarterly  
22 reminders -- not reminders -- memos inquiring  
23 how -- I would ask him quarterly how he would  
24 like that presented.  
25 Q. Were those written memos?

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- 1 A. I could have passed that along to Kelly.  
2 Q. If you had, would that be a reference to this  
3 communication you had had with  
4 Mr. McConnell's secretary?  
5 A. Possibly if it related to this topic. I  
6 remember the conversation. I don't remember  
7 if it referred to this or some other issue,  
8 but I do recall that conversation.  
9 Q. And the conversation you recall is the  
10 conversation with Mr. McConnell's secretary?  
11 A. Right. I believe that's how it was handled.  
12 Q. Do you know who the name of the secretary  
13 was?  
14 A. Carol Gordon.  
15 Q. Now I'd like to show you what's been marked  
16 as -- previously marked as Exhibit 328.  
17 Exhibit 328 is a one-page document that bears  
18 the Bates stamp FNL-01-011562. It's dated  
19 March 17, '95. Ms. Gilbert, have you ever  
20 seen this document before?  
21 A. I don't believe I have.  
22 Q. Did you have any involvement at all in the  
23 negotiations of the reimbursement and  
24 security agreement with Morgan Guaranty Trust  
25 in connection with the AGH bonds?

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- 1 A. I believe there was one that was written.  
2 Q. Were there occasions where you did it orally?  
3 A. Possibly.  
4 Q. What do you recall his responses to those  
5 were?  
6 A. This was his response, the way it's presented  
7 here, not to bring attention to the note.  
8 Q. What do you recall him specifically telling  
9 you?  
10 A. I can't remember if it was on this topic or  
11 another topic, but I had asked -- he was  
12 unavailable, and I had his secretary -- it  
13 may have been on this topic. It could have  
14 been on another topic, but I do recall asking  
15 his secretary to relay the question how he  
16 would like this handled, and I believe she  
17 had gotten back to me to present it in the  
18 format that you see it presently with no  
19 explicit notation and do so until further  
20 direction. Basically quit asking me this  
21 every quarter was how I had interpreted the  
22 feedback.  
23 Q. Do you recall telling Ms. Mertz at some point  
24 that Mr. McConnell had told you to include  
25 the note receivable and don't ask me again?

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- 1 A. From the correspondence that was shared  
2 yesterday, apparently I was.  
3 Q. Do you have any recollection of Ms. Flanagan  
4 raising during those negotiations a concern  
5 regarding the intercompany flows that have  
6 occurred -- this had occurred and may occur  
7 in the future in the AHERF system?  
8 A. Yes. I believe that was the message or the  
9 common theme in yesterday's documents that  
10 that was the reduction to the consolidated  
11 fund balance. That was one of the ratios  
12 that was not met because of that very reason.  
13 Q. All right. If we look at Exhibit 328, the  
14 first paragraph indicates that item No. 2  
15 (relating to AHERF) remains a major problem  
16 for the Group. Do you see that?  
17 A. I do.  
18 Q. And the next paragraph says, quote, Morgan's  
19 proposed solution was not intended to tie  
20 into AHERF's assets (You will note we have  
21 not requested or received financial  
22 information relating to AHERF). We can  
23 remove references to AHERF in the agreement,  
24 however, given a substantial volume of  
25 intercompany flows that have occurred and



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1 that may occur in the future, we seek  
 2 protection customary for this type of  
 3 transaction, that our limited obligation will  
 4 not be weakened by net outflows to the  
 5 advantage to other parts of the system,  
 6 period, closed quote. Do you see that?  
 7 A. I do.  
 8 Q. Is that what you believe is a reference to  
 9 what became the calculation of the  
 10 unrestricted fund balance covenant?  
 11 A. Yes.  
 12 Q. And if we look at the next paragraph, it  
 13 says, quote, We are willing to take another  
 14 approach to achieve the same objective by  
 15 requiring minimum consolidated unrestricted  
 16 fund balances defined to exclude, quote,  
 17 loans, to and investments in affiliates  
 18 outside the AHG Obligated Group and expressed  
 19 as a percentage of total assets, period,  
 20 closed quotes. Do you see that?  
 21 A. Yes.  
 22 Q. Do you recall this issue being raised during  
 23 the negotiations?  
 24 A. I do not recall this one-pager because when I  
 25 see the six unresolved issues, I'm wondering

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1 what six she's referring to and item No. 2.  
 2 So although I was somewhat included in the  
 3 renewal and change in terms of this  
 4 agreement, I don't recall this letter.  
 5 Q. Let me show you what's been marked as  
 6 Exhibit 329 previously. Would you take a  
 7 moment to review this document, Ms. Gilbert.  
 8 It is a one-page document that bears the  
 9 Bates stamp FNL-01-021561.  
 10 A. (Witness reviews document.)  
 11 Okay.  
 12 Q. If you look up at the top to document is  
 13 dated March 21, 1995. Did you see that?  
 14 A. Yes.  
 15 Q. The first paragraph of text indicates --  
 16 strike that. If you look at Exhibit 328 it  
 17 indicates it's a memo from Susan Flanagan  
 18 from Mr. Martin, Tom Barry and Bob Zimmerman.  
 19 A. Yes.  
 20 Q. You understand Ms. Flanagan to be a  
 21 representative from Morgan.  
 22 A. Yes.  
 23 Q. If you look down at the bottom there is a  
 24 handwritten -- looks to me like an S. Do you  
 25 understand that to be her signature?

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1 A. I believe so.  
 2 Q. And then if we look at Exhibit 329, it's  
 3 again to Mike Martin, Tom Barry and Bob  
 4 Zimmerman, but it doesn't say who it's from,  
 5 but you have the same S down at the bottom;  
 6 is that right?  
 7 A. Yes.  
 8 Q. So you understand 329 to be also a memorandum  
 9 from Ms. Flanagan?  
 10 A. Yes.  
 11 Q. The first text of this in Ms. Flanagan's memo  
 12 she says, Pursuant to your request I'm  
 13 revising certain sections of my memo to you  
 14 dated 3-15-95 relating to the proposed letter  
 15 of credit reimbursement agreement to reflect  
 16 what was mutually agreed during the telephone  
 17 conversation of yesterday, closed quote. Do  
 18 you see that?  
 19 A. Yes.  
 20 Q. Do you have reason to believe that you were a  
 21 participant in that telephone conversation  
 22 she refers to there?  
 23 A. I could have been.  
 24 Q. If you see here there are listed six topics  
 25 on Exhibit 329.

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1 A. I do.  
 2 Q. Do you believe that that corresponds to the  
 3 six unresolved issues that you were unsure  
 4 about with respect to Exhibit 328?  
 5 A. Yes.  
 6 Q. If we look at unresolved issue No. 2, it says  
 7 Reference to AHERF in the reimbursement  
 8 agreements. Do you see that?  
 9 A. Yes.  
 10 Q. And the resolution that has been agreed on  
 11 is, quote, All references to AHERF will be  
 12 removed from the reimbursement agreement?  
 13 A. Yes.  
 14 Q. And that is consistent with what Ms. Flanagan  
 15 had talked about in the text of her memo of  
 16 Exhibit 328?  
 17 A. Right.  
 18 Q. And then if we go to issue No. 3 of  
 19 Exhibit 329, Sale/Transfer of Assets, it says,  
 20 quote, The reimbursement agreement will not  
 21 contain the customary ten percent per annum  
 22 limitation on sales transfers of assets as we  
 23 believe the \$200 million unrestricted fund  
 24 balance requirement will effectively protect  
 25 the asset base during the original three-year



SUSAN GILBERT

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1 COMMONWEALTH OF PENNSYLVANIA ) CERTIFICATE

2 COUNTY OF ALLEGHENY ) SS:

3 I, Claire Gross, RDR, a Court Reporter and  
 4 Notary Public in and for the Commonwealth of  
 5 Pennsylvania, do hereby certify that the witness,  
 6 SUSAN GILBERT, was by me first duly sworn to testify  
 7 to the truth; that the forgoing deposition was taken  
 8 at the time and place stated herein; and that the  
 9 said deposition was recorded stenographically by me  
 10 and then reduced to printing under my direction, and  
 11 constitutes a true record of the testimony given by  
 12 said witness.

13 I further certify that the inspection, reading  
 14 and signing of said deposition were NOT waived by  
 15 counsel for the respective parties and by the  
 16 witness.

17 I further certify that I am not a relative or  
 18 employee of any of the parties, or a relative or  
 19 employee of either counsel, and that I am in no way  
 20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
 22 and affixed my seal of office this 27th day of  
 23 September, 2002.

24 \_\_\_\_\_  
 25 Notary Public

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1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
 2 COUNTY OF ALLEGHENY ) S H E E T

3 I, SUSAN GILBERT, have read the forgoing pages  
 4 of my deposition given on Wednesday, September 25,  
 5 2002, and wish to make the following, if any,  
 6 amendments, additions, deletions or corrections:

7 Page/Line Should Read Reason for Change

8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19

20 In all other respects, the transcript is true and  
 21 correct.

22 \_\_\_\_\_  
 23 SUSAN GILBERT

24 Subscribed and sworn to before me this  
 25 \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
 Notary Public  
 AKF Reference No. Cg72118

SUSAN GILBERT

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IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

- - - - -

THE OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF )  
ALLEGHENY HEALTH, EDUCATION & )  
RESEARCH FOUNDATION, )

Plaintiff, )

-vs-

PRICewaterhouseCOOPERS, L.L.P. )

Defendant. )

Civil Action  
No. 00-684

- - - - -

VOLUME IV  
VIDEOTAPE DEPOSITION OF: SUSAN GILBERT

- - - - -

DATE: October 15, 2002  
Tuesday, 11:30 a.m.

LOCATION: MANION McDONOUGH & LUCAS  
14th Floor, USX Tower  
Pittsburgh, PA 15219  
412-232-0200

TAKEN BY: Defendant

REPORTED BY: JoAnn M. Brown, RMR  
Notary Public  
AKF Reference No. JB72402